

THE SECRETARY OF STATE
WASHINGTON

JUL 27 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr.  Chairman:

I write to urge your strong support for the Consular Notification Compliance Act, S. 1194, a bill that was carefully crafted in consultation with the Departments of State and Justice, and is fully supported by this Administration. The bill's enactment is crucial to the preservation of our international law enforcement, security, and other critical bilateral and multilateral interests, but I want to underscore how vital the bill is to the ability of the United States to protect American citizens who find themselves in the custody of a foreign government.

The State Department has no greater responsibility than the protection of the millions of U.S. citizens who live and travel overseas, whether for business or pleasure, to study, or to serve in our Armed Forces. Through the international system of consular assistance—a system that has evolved over centuries and is reflected today in numerous binding U.S. treaties—foreign governments are obligated to allow U.S. consular officers access to our citizens when they are detained for immigration reasons, imprisoned on criminal charges, or otherwise fall in foreign custody. Last year alone, our consular officers conducted more than 9,500 consular visits, and assisted more than 3,500 Americans detained abroad, helping them receive food and medical assistance, communicating with their families, and providing them with information regarding foreign legal systems and how to access legal counsel.

In return for such essential access, the United States has committed by treaty—the Vienna Convention on Consular Relations and other bilateral consular conventions—to permit foreign officials to provide the same assistance to their own citizens who are arrested here. This protective system of consular assistance depends on mutual compliance by the United States and our treaty partners. If the United States fails to honor our legal obligations toward foreign nationals in our

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custody, the fabric of this protective system erodes, and ultimately it is your constituents who will be harmed.

A recent case illustrates that, even in the most challenging of circumstances, where it is imperative that we secure consular access, our treaty relationships have preserved the United States' ability to access and protect our citizens. In that case, an employee of the U.S. Embassy in Pakistan was arrested and detained on criminal charges by Pakistani authorities. The United States insisted on securing access, as required under the Vienna Convention, and ultimately our consular officials were able to access the individual and he was released.

In another recent case, a U.S. citizen was arrested for overstaying his visa and immediately detained at one of the worst prisons in Zimbabwe. Through contacts in the country's prison system, the Embassy quickly heard about the case and facilitated his return to the United States within 48 hours. Two weeks later, the Embassy also received a diplomatic note from the Ministry of Foreign Affairs notifying the Embassy of the arrest. Without good foreign government contacts and effective work by the Consular Section, this American citizen would have spent considerable time in terrible conditions.

In a globalized world, your own constituents travel and live overseas in ever increasing numbers, and many have found themselves in need of consular assistance—sometimes in a country with few rights or due process protections. In the past five years alone, our consular officers have visited at least six individuals from your state in foreign custody, and provided other forms of assistance to many more.

We cannot fully protect our citizens, including your constituents, unless we do our part to ensure that our treaty partners in turn can provide their citizens with consular assistance. The subject of today's hearing—the Consular Notification Compliance Act—is a carefully crafted piece of legislation designed for that purpose. The bill outlines practical steps for federal, state and local authorities to comply with consular notification rules, creates limited backstops to ensure that consular notification and access are provided in a timely fashion, and in a very small number of past cases, gives foreign nationals the chance to prove to a court that they were actually prejudiced by not having been given the opportunity for consular assistance.


Swift enactment of this bill would serve our critical interests – also recognized by the prior Administration – in protecting American citizens,

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preserving our foreign policy relations, and abiding by vital treaties to which the Senate has advised and consented. For that reason, I join the Department of Justice and the rest of the Administration in urgently calling on you to help enact this narrow and essential legislation.

Sincerely,


Hillary Rodham Clinton

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